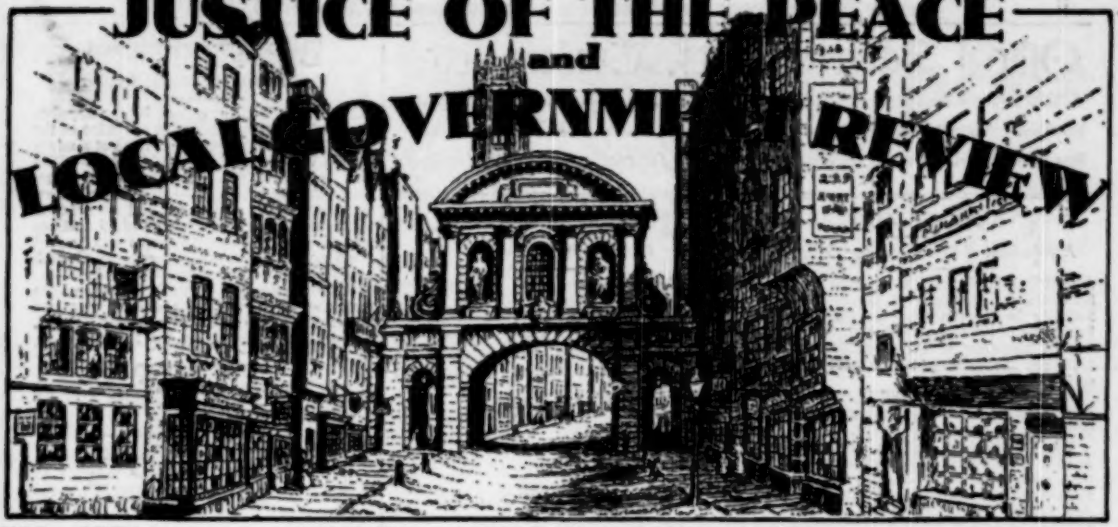
JUSTICE OF THE PEACE and LOCAL GOVERNMENT REVIEW



VOL. CXIV. LONDON: SATURDAY, AUGUST 26, 1950. No. 34

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REPORTS

Official Advertisements, Tenders, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Miscellaneous Advertisements 24 words 6s. (each additional line 1s. 6d.) Box Number 1s. extra. *Latest time for receipt—9 a.m. Wednesday.*

COUNTY OF DENBIGH

Appointment of Senior Assistant Solicitor

APPLICATIONS are invited from admitted Solicitors for the post of Senior Assistant Solicitor in the office of the Clerk of the Peace and of the County Council. The salary will be according to the scale £650 × £25—£750 but the grading of the post is to be reviewed shortly.

Applicants must be skilled in conveyancing and advocacy, and local government experience will be a considerable advantage.

The appointment will be subject to the general Conditions of Service applicable to the County Council's Staff, and to the provisions of the Local Government Superannuation Act, 1937. The successful candidate will be required to pass a medical examination and his appointment will be terminable by two calendar months' notice on either side.

Canvassing, directly or indirectly, will disqualify.

Applications, stating age, education, qualifications and experience, together with copy of one recent testimonial and the names of two referees, must reach the undersigned not later than September 9, 1950.

W. E. BUFTON,
Clerk to the County Council.

County Offices,
Ruthin.

COUNTY BOROUGH OF DEWSBURY

Appointment of Chief Constable

APPLICATIONS are invited for the appointment of Chief Constable at a salary of £1,050 per annum, rising by annual increments of £50 to a maximum of £1,200 per annum, being the scale prescribed by the Secretary of State. Rent allowance or, alternatively, housing accommodation will be provided, together with other usual emoluments.

Applicants must be qualified in accordance with Police Regulations.

The appointment will be subject to the Police Pensions Acts and Regulations made thereunder and to three months' notice on either side. The person appointed will be required to pass a medical examination.

The person appointed will be required to devote the whole of his time to the duties of the office, and to undertake such duties from time to time as may be properly assigned to him in addition to his ordinary police duty. He will be required to reside within the borough.

Applications, stating age, experience, qualifications and present and previous appointments, together with copies of not more than three recent testimonials, endorsed "Chief Constable," must be received by the undersigned not later than September 7, 1950.

Canvassing in any form is strictly prohibited and will be deemed a disqualification.

A. NORMAN JAMES,
Town Clerk.

Town Clerk's Office,
Dewsbury.
August 18, 1950.

BOROUGH OF CHATHAM

Committee Clerk (Male)

APPLICATIONS are invited for the above appointment at a salary of £420 × £15—£465 per annum (Grade II A.P.T. Division).

Full details of the terms of the appointment can be obtained from the undersigned by whom applications must be received by August 31, 1950.

ROWLAND NEWNES,
Town Clerk.

Town Hall,
Chatham.

CITY AND COUNTY OF THE CITY OF LINCOLN

Appointment of Senior Assistant Solicitor

APPLICATIONS are invited for the abovementioned appointment at a salary in accordance with Grade A.P.T. VIII (£685 × £25—£760 p.a.) of the National Salary Scales. Applicants must possess good experience in conveyancing and advocacy and some local government experience is essential.

The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, and the successful applicant will be required to pass a medical examination. Housing accommodation is available.

Applications, stating age, qualifications, experience, and the names and addresses of three persons to whom reference can be made, must reach me not later than August 28, 1950.

Canvassing, directly or indirectly, will disqualify.

J. HARPER SMITH,
Town Clerk.

Town Clerk's Office,
Lincoln.
August 4, 1950.

BOROUGH OF WILLESDEN

Appointment of Chief Law Clerk

The Council invite applications for the appointment of Chief Law Clerk on the permanent staff of the Town Clerk's Department.

The salary attaching to the post will be in accordance with A.P.T. Grade VI of the National Salary Scales for the London Area, namely £625—£690 per annum rising by two increments of £20 and one of £25.

Application must be made on a form obtainable from the undersigned, to whom it must be returned not later than 10 *a.m.* on Monday, September 4, 1950.

Canvassing, directly or indirectly, will disqualify.

R. S. FORSTER,
Town Clerk.

Town Hall,
Dyne Road,
Kilburn, N.W.6.

BUCKS COUNTY COUNCIL

Appointment of Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor in the office of the Clerk of the Bucks County Council at a salary within Grade A.P.T. VIII (£685 × £25—£760 per annum). The appointment is superannuable and subject to medical examination. Experience of conveyancing and advocacy is essential. A weekly allowance of 25 shillings and bi-monthly return fare home may be paid for 6 months to married officers of the Council unable to find housing accommodation.

Applications, with particulars of experience and the names of two referees, must be delivered to the Clerk of the County Council, County Hall, Aylesbury, by September 19, 1950.

GUY R. CROUCH,
Clerk of the Bucks County Council.

County Hall,
Aylesbury.

ASSOCIATION OF MUNICIPAL CORPORATIONS

Assistant Secretary

APPLICATIONS are invited from solicitors for appointment as an Assistant Secretary to the Association. Local government experience is essential. Salary £1,250 rising by annual increments of £50 to £1,500 per annum.

The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, and to a satisfactory medical examination, and will be determinable by three months' notice on either side.

Applications, stating age, qualifications including date of admission, experience and the names of three persons to whom reference can be made, should be sent to the undersigned within twenty-one days from the publication of this advertisement.

Personal Secretary

APPLICATIONS are invited for the appointment of personal secretary to the Secretary of the Association. Knowledge of shorthand and typing is essential.

Preference will be given to candidates between the ages of twenty-five and thirty-five who are graduates and have had local government experience.

Salary will be dependent on the qualifications and experience of the successful applicant and will be between £350 and £435.

This appointment is also subject to the provisions of the Local Government Superannuation Act, 1937, and to a satisfactory medical examination and will be determinable by one month's notice on either side.

Applications, stating age, qualifications and experience with the names of two persons to whom reference can be made, should be sent to the undersigned within fourteen days from the publication of this advertisement.

G. H. BANWELL,
Secretary.

Palace Chambers,
Bridge Street,
Westminster, S.W.1.

SITUATION WANTED

UNADMITTED legal assistant. Now assistant Magistrates' Clerk, 25 years' experience including years with solicitors and local authority seeks change; salary about £650; preferably local authority or solicitors in South. Box N, office of this paper.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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Pages 482-493 | Offices : LITTLE LONDON, CHICHESTER, SUSSEX | [Registered at the General Post Office as a Newspaper]

NOTES of the WEEK

Viscount Hailsham

The death last week, at the age of seventy-eight, of the Rt. Hon. Sir Douglas McGarel Hogg, P.C., first Viscount Hailsham, of Hailsham, in the County of Sussex, in the Peerage of the United Kingdom, ended a career rich in both legal and political honours.

Not called to the bar by Lincoln's Inn until 1902, when he was thirty years of age (after military service in the South African war, and some years spent in commerce), by the time he took silk in 1917 he had established one of the most successful junior practices of his time. As a leader, he attained immediate success, and in 1920 (the same year as he was appointed Attorney-General to the Prince of Wales) he was made a Bencher of his Inn.

At the invitation of Mr. Bonar Law, then Prime Minister, in 1922 he accepted the office of Attorney-General, and was elected as Conservative Member of Parliament for St. Marylebone in the same year. He was out of office in 1924, following his Government's unsuccessful appeal to the Country, but later in the same year his Party was returned to power and he was again appointed Attorney-General. In 1928, he was appointed Lord Chancellor.

His first term of office was short, from 1928 to 1929, but, brief as this period was, it was apparent that Lord Hailsham, as occupier of the Woolsack, was possessed of unusual qualities ; while retaining some of that forcefulness which had so characterized him in the Lower House, he presided in the House of Lords with dignity and charm. From 1931 to 1935, he was Secretary of State for War, and in 1935 he returned to the Woolsack until 1938, when, by reason of illness, he was transferred to the post of Lord President of the Council, from which, late that year, he resigned and so ended, to all intents and purposes, his political career.

Of his qualities as a lawyer, much could be written. His editorship of the Hailsham edition of *Halsburys Laws* showed the characteristic painstaking care and thoroughness with which he always applied himself to any task on hand, while his judgments were models of learning, conciseness and clarity. He will be sadly missed.

Guardianship of Infants—Venue

R. v. *Sandbach Justices, ex parte Smith* (1950) *see* p. 474, *ante*, has decided a point on which there was previously no authority. A mother living in Cheshire applied to her local summary court for the custody of a child of the marriage. The father was living in Oxfordshire and the child was with an aunt in Northern Ireland. The Sandbach (Cheshire) justices made an order giving custody to the mother, with £1 a week for its maintenance till it attained the age of sixteen years. The father applied for a *certiorari* on two grounds (1) that those justices had no jurisdiction under the Acts (2) that in any event justices had no jurisdiction to make an order about the custody of a child living abroad.

The High Court held that the Guardianship of Infants Acts require that, except in proceedings in the High Court, a case concerning the custody of a child must be brought where the respondent to the proceedings lives, and *not* where the applicant lives. This decision applies to summary courts the procedure laid down in the Acts for cases brought in county courts. On this ground the Court granted the order of *certiorari* asked for.

Lord Goddard, C.J., went on to express the opinion of the court on the second point and stated that while there was authority for saying that a court apparently had jurisdiction to make an order, apart from any local jurisdiction, it would be a very unusual, and in many cases, a most undesirable thing, more especially for justices, to make one. How, he asked, would it be enforced ; and he added that the court would have difficulty in exercising its powers of supervision and that a provision for access could be illusory.

This expression of opinion is a useful assistance to justices, but the real value of the case is, of course, the decision that the application must be made to the justices having jurisdiction where the *respondent* lives, and that the justices of the area where the applicant lives cannot entertain the matter.

The Duties of a Collecting Officer

Section 4 of the Married Women (Maintenance) Act, 1949, which imposes upon collecting officers similar duties in respect of the enforcement of maintenance orders to those imposed in respect of affiliation orders by the Affiliation Orders Act, 1914, uses what may be a significant change of language in that the latter Act provides that it shall be lawful for the collecting officer to proceed in his name for the recovery of payments " on the request in writing of the mother or other person entitled to recover payments " whereas the Married Women (Maintenance) Act simply provides that the officer shall take such proceedings " if the married woman so requests and unless it appears to him that it is unreasonable in the circumstances so to do." It would appear then that as a matter of law a verbal request by the married woman is sufficient to impose the duty of taking proceedings on the collecting officer, but in practice a collecting officer will no doubt wish to safeguard himself by securing a written request. Should the woman refuse to give such a written request this would arouse suspicion as to the *bona fides* of the application, and might justify the officer coming to the conclusion that in the circumstances it was unreasonable for him to proceed to enforce the order.

The question has further been raised whether there could be a specific request each time the woman wishes to have the arrears enforced, or whether a general authority to enforce arrears as and when they arise would be sufficient. Having regard to the wording of s. 4 as a whole there is some doubt as to whether such a general authority would be sufficient, but whatever the legal position there is no doubt that as a matter of practice a specific request each time enforcement of arrears is contemplated is much to be preferred. It is not unusual for parties to become reconciled without notifying the court, and it is easy to imagine the difficulties which would arise in such circumstances if the woman had given a general request and in pursuance of this the court had issued process against the husband.

Parental Responsibility

At a conference convened in July by the Mayor of East Ham and attended by most of those whose official duties in that area bring them into contact with the problem of juvenile delinquency, the chief education officer, Mr. L. J. Dyer, M.A., B.Sc., showed that he places on parents the blame for a great deal of the trouble. This is not a new point of view, of course, but Mr. Dyer feels that as the law stands it is difficult adequately to bring home to parents the need for them to take a positive interest in seeing that their children do not have reason to appear before juvenile courts. He advocated that consideration should be given to a new provision by which parents in certain circumstances should be guilty of an offence when their children behave in such a way as to lead to the children being charged, in the same way as are parents whose children fail to attend regularly at school. We do not know if this is an entirely novel suggestion, but it is certainly one which we have not heard before. We have known a number of cases in which the parents richly deserve to be punished in some way more directly than by being called upon to pay any fine imposed upon their children or by being required to enter into a recognizance for the children's future good behaviour. We do not know if Mr. Dyer's views will attract the attention of those responsible for future legislation affecting juveniles; if they do we shall be interested to see whether any practical way is found of giving effect to them. There are, of course, obvious difficulties and objections, but this does not mean that the idea is wholly impracticable.

Accommodation in Juvenile Courts

An editorial article in the August, 1950, *Approved Schools Gazette* draws attention to the inadequacy of the waiting room accommodation in many juvenile courts. It must at once be recognized that this is a question which those responsible for providing and maintaining the premises in which juvenile courts are held are fully alive to, but since regard must be had both to what accommodation is actually available and to the question of cost it is not easy to find the perfect answer. In many cases juvenile courts sit infrequently, and having regard to the provisions of s. 47 of the Children and Young Persons Act, 1933, as to when and where such courts are to be held, it is difficult, in many cases impossible, to find existing premises which have the necessary accommodation, and it is certainly impracticable to build suitable premises unless they can be used for other purposes when they are not required by the juvenile court. Directly one contemplates such other user the problem presents itself of what the other persons so using the premises are to do on the days when the juvenile court is sitting.

Having said this we hasten to agree with the writer of the article in question that the problem is one to which a solution should be found whenever possible. As he points out the mixing up of all sorts of children and their parents both before and after the children have appeared before the court is obviously undesirable. We have no doubt that it does lead, as he suggests, to many youngsters adopting an air of bravado which they carry with them into the court room, making it difficult for the justices to form any reliable opinion as to their attitude to the matter which has brought them before the court. The writer complains of the mixing of boys and girls in the waiting rooms, and suggests also the provision of a way out from the court, for those who have been dealt with, different from that by which the new cases are to enter the court. He further suggests (this is not a novel suggestion) that if there is any considerable number of cases to be dealt with the hours of attendance should be staggered to reduce the congestion and difficulties in the waiting rooms. On this point it must be recognized that for a busy court attempts to stagger times of cases, unless made on very broad lines, can add greatly to the difficulties the court experiences in disposing of its list.

We have given space to this matter because we think it is an important one, and any of our readers who can put forward useful and practical ideas on the subject will, we feel sure, earn the thanks of those who meet this difficulty in their daily work.

Condonation—Conditional Forgiveness becoming Absolute by Lapse of Time

Doubts have been expressed from time to time as to the reasonableness of allowing a matrimonial offence that has been condoned to be revived by other conduct, no matter how long may have elapsed since the original condonation. In *Beale* v. *Beale* [1950] 2 All E.R. 539, Denning, L.J., expressed his views on this point. In the case cruelty was alleged between 1930 and 1938; between 1938 and 1945 the parties lived a normal married life, and after 1945 further cruelty was alleged. It was sought to revive the early alleged cruelty between 1930 and 1938.

The case was decided (per Bucknill and Somervell, L.JJ.), on the ground that no cruelty had been proved by either party in respect of either of the periods. Denning, L.J., stated that he was prepared to assume that the episodes between 1930 and 1938 amounted to cruelty, but he did not think, even so, that they could be made a ground for divorce. *Beard* v. *Beard* [1945] 2 All E.R. 306 and *Richardson* v. *Richardson* [1949] 2 All E.R. 330 establish that condonation is forgiveness conditional on the future good behaviour of the guilty party. The "probationary period" does not necessarily last for life, and a point may be reached where, by his good behaviour, the guilty party has proved himself worthy of the trust and confidence of the other. The further past offences recede into the distance the more difficult it becomes to revive them, and the time may come when the proper inference is that the conditional forgiveness has become absolute. On this ground, Denning, L.J., was of opinion that any violent episodes which had occurred in the early years of the marriage must be regarded as having been forgiven by both sides absolutely and not conditionally, and as being incapable of revival by any events after December, 1945.

This view that a past offence cannot forever be held over the head of the guilty party is an eminently reasonable one, but there will obviously be considerable difficulty, and probably considerable difference of opinion, in deciding where the line should be drawn in a particular case.

Irish Parallel

The decision of the Dublin Supreme Court in *Tilson* v. *Tilson*, noticed in *The Times* of August 9, provides an interesting comparison with the English decision in *Re Collins* [1950] 1 All E.R. 1057, on which we commented at p. 343, *ante*, under the title

" Faith at Choice." Though the facts were different, the same underlying doctrine of the common law had to be considered in the light of modern developments. In the Irish case the parents were both alive, but had separated. As with the English parents in the earlier case the wife was a Roman Catholic, the husband a member of a Protestant body, the disestablished Church of Ireland. The children had, like the English child, been placed in a Protestant household, and the court was asked, as was Wynn-Parry, J., to order their removal to a place where they would be brought up in the mother's religion, in accordance with an ante-nuptial agreement of the type normal in these " mixed " marriages. But whereas the English judges felt themselves able to decide upon a new ground introduced by the Guardianship of Infants Act, 1925, namely the welfare of the child (which in the case before them meant leaving the Protestant *status quo* undisturbed), the Irish judges found themselves discussing the rival claims of the common law, which would have given effect to the father's wishes, and the sanctity of contract.

The newspaper account is not so illuminating as a law report which may later be available ; for instance, Black, J., in a minority of one, is said to have declared that the common law, applicable throughout Ireland when it all formed part of the United Kingdom, was not overridden by the constitution of 1937. This is cryptic, since one would not expect the Constitution to deal with such a point. Against him, the other four members of the Supreme Court based themselves, not ostensibly (it seems) upon the Constitution but upon the contract between the parties, a contract not in their opinion rendered unenforceable, as at one time it would have been at common law, by any overriding public policy. In favour of the Supreme Court of the Republic, the legal reader is entitled to assume that the contract would equally have been upheld had it been for a Protestant upbringing—although, in practice, everybody knows that such a contract is much less usual than that which gives the children's upbringing to the Roman Catholic parent.

The legal reader and the layman may both permit themselves some scepticism about religious scruples manifested only after the parties are at loggerheads. And they may also agree upon the extreme difficulty for the judges which such cases must present. The English Court, expressly declaring its inability to decide which form of religion was the better for a child, was able to take refuge in the *status quo*. The Irish Court felt able to upset the *status quo* upon the ground of contract. What would have happened if the children had been already put in a home conforming to the contract, and that home had been found unsuitable ? We suppose they would have directed that a different home be selected, but still according to the contract. It seems that they have an advantage over their English brethren in this matter, so long as there is shown to be a contract : a contract, at any rate, is something that can be proved by evidence, and something which all lawyers instinctively desire to hold sacred, whereas " welfare of the child " has about it a little too " roguish " a sound for lawyers who do not care for being guided by the Chancellor's foot.

Degrees of Duty in Tort

The case of *Pritchard* v. *Post Office* (1950) 111 J. P. 370 will be useful to local authorities and statutory corporations, and indeed to contracting firms, as well as to the Post Office, since it helps to clear up a doubtful point upon the law of tort. Post Office engineers had opened a manhole in the pavement, and placed round it the usual light, portable, railing. It was found or accepted as a fact that this railing would have been enough to prevent an ordinary person using proper care from falling down the manhole, but the plaintiff was blind. Not having seen the railing, she found it insufficient to prevent her falling. The decision of the Court of Appeal in favour of the Post Office will afford writers upon tort an opportunity of comparing the position of the blind with that of children, about which there is a wealth of case law in England, Scotland, and America.

Broadly speaking, the present position seems to be that when a person owes to the public a duty of taking care, he owes no greater duty to children or persons who have some physical disability than to others, unless the place concerned, or some object or process in connexion with which his duty arises, is one where or in relation to which children or disabled persons form an unusual proportion of the public. In close proximity to a school, or on the coast road past St. Dunstan's, a higher degree of duty may be called for than in an ordinary street.

WILFUL NEGLECT TO PROVIDE REASONABLE MAINTENANCE

[CONTRIBUTED]

It was provided by s. 4 of the Summary Jurisdiction (Married Women) Act, 1895, that a married woman might obtain a maintenance order on the ground (one of several therein laid down) that her husband had been guilty of wilful neglect to provide reasonable maintenance for her or her infant children whom he was legally liable to maintain. It was, however, stipulated that the neglect " shall have caused her to leave and live separately and apart from him." A similar requirement of actual separation from her husband was made where the wife complained of persistent cruelty, another ground under the Act for obtaining a maintenance or separation order.

There is good reason to think that, when before Parliament, this Act, one of the most important enactments which justices have to administer, did not receive sufficient consideration either in principle or in detail, for the Royal Commission on Divorce and Matrimonial Causes (1912) said, at p. 67 of their Report " There is no report in *Hansard* of any discussion of the Bill which became the Act of 1895, and it may be doubted whether the effects of its provisions were adequately appreciated at the time it was passed." Perhaps no provision of the Act worked more hardship to the working-class wife than this requirement that she must physically separate from her husband (which also meant, in fact, taking her children with her) if she was to have any chance of getting an order on the ground of persistent cruelty or wilful neglect to maintain. To alleviate this hardship to her, magistrates often went to great lengths to find facts constituting an actual " leaving and living separately and apart " where by force of circumstances a leaving of the matrimonial home could not even amount to a departure to a room apart but under the same roof. It is even said that one magistrate with pronounced feminist sympathies would find the law satisfied if a wife, in default of any other means of separating from her husband, withdrew to the extreme edge of the connubial bed, and steadfastly refused sexual intercourse to her husband.

A generation, however, elapsed before the hardship was removed, by the Summary Jurisdiction (Separation and Maintenance) Act, 1925, repealing the first set of words in inverted commas above.

The effect of this long desired amendment of the law was, perhaps, to set the machine moving in the opposite direction.

Orders on the ground of neglect to maintain, once so difficult to obtain, now began to be sought, and were often secured, on unsubstantial grounds. As early as 1929 judicial comment on this effect of the 1925 Act was evoked. In *Jones* (*B.*) v. *Jones* (*M. E.*) (1930) 94 J.P. 31, Hill, J., commented "justices shrink from finding desertion or cruelty, but since the Act of 1925 they tend to find wilful neglect rather lightly." Severer strictures were made by Lord Merrivale in *Weatherley* v. *Weatherley* (1930) 94 J.P. 38, on an appeal in a case where a charge of persistent cruelty having failed in the magistrate's court, a new charge of wilful neglect to maintain was either added or substituted at a late stage in the proceedings, resulting in a maintenance order being made against a husband on this latter ground. The President said "That is a very serious matter. If an occurrence of that kind is to be regarded as a natural outcome of the amendment in the law made by the Act of 1925, whereby wilful neglect to maintain by itself gives ground to resort to justices for an order for maintenance, much closer attention than in the past must necessarily be paid to that class of proceeding. What seems requisite, before a husband can be found guilty of a wilful breach of his duty to maintain his wife, is that there must be a refusal to maintain, which has no explanation reasonable in common sense and good faith." Continuing, he made it plain that a wife who was unwilling to discharge her matrimonial obligations could not expect to be maintained apart from him at his expense. He said "where, upon proved facts, the husband against whom the charge is maintained is shown to have done his duty to the best of his ability, and never wilfully to have failed in his duty to discharge his marital obligations, taking them generally as the relations of husband and wife, there is very great difficulty in conceiving a case where a woman can disclaim her proper obligations to her husband, and, having failed to be maintained separately by reason of her disclaimer, make herself a complainant in law on the ground of her own wrong."

In view of this pronouncement, and others like it mentioned in this article, it is odd to find counsel for the appellant wife in *Clark* v. *Clark* (1931) 95 J.P. 170, going so far as to contend that there was only "one limitation under the Separation and Maintenance Acts which would disentitle her to maintenance, *i.e.*, adultery." This was a far too narrow view of the matrimonial law, being, it would seem, based upon a mere reading of the 1895 Act and a total disregard of the law as practised and administered in the High Court in matrimonial matters. Dealing with the 1925 amendment, Lord Merrivale said "That amendment requires very careful attention by those who have to administer this very difficult branch of the law. Its true construction must be considered in the light of both the principal Act and the amending Acts and the proviso in subs. (4) of s. 1. of the Act of 1925," (this provides for the order ceasing to have effect if the wife continues to reside with her husband for three months after it was made). He then dealt with counsel's contention in these terms: "Keeping definitely in mind the law of England with regard to marital relationship and the mutual character of marital duties, what the Legislature has done is not to provide that a married woman who has not committed adultery may in any circumstances whatever come to the justices and claim from her husband what she considers reasonable maintenance and get an order. The law on the other hand does take account still of the mutual character of marital obligations."

It is clear then that, before the husband can be found "guilty of wilful neglect" to maintain his wife, the prior question for determination is, is he in the particular circumstances of the case under a duty to maintain at all? This was made clear by Hill, J., on the hearing of the appeal from a maintenance order in *Papadopoulos* v. *Papadopoulos* (1930) 94 J.P. 39. He said "Neglect means failure in a duty to maintain the wife. And the question is whether he was under a duty to maintain the wife. *Prima facie* he was. That is the common law of England, and it was for the husband to show that he was excused from that duty. A husband may show it in various ways. For instance, he may show that his wife has been guilty of adultery, neither condoned nor connived at nor conduced to by the husband, or that she has deserted him and was continuing to desert him, or that there is a subsisting binding contract performed and not repudiated by him that she should not claim maintenance, otherwise than as provided by the contract, or that a court of competent jurisdiction had in a proceeding between husband and and wife already determined the rights of the wife in respect of maintenance, and that he had fulfilled the obligations so imposed on him. But the onus is on the husband to prove the excuse."

As in the case of desertion (*see e.g.*, *Jackson* v. *Jackson* (1924) P. 19, per Sir Henry Duke, P.), Judges have been chary in defining the statutory expression which is the title of this article. In *Morton* v. *Morton* (1942) 106 J.P. 139, Lord Merriman said "That expression must be considered as a whole and . . . I agree with Lord Merrivale's view, expressed in *Jones* (*B.*) v. *Jones* (*M. E.*), *supra*, that it imports some element of matrimonial misconduct." Lord Merrivale had said "They (*i.e.*, the justices) seemed to have supposed that if he had not maintained her they could order him to do so, but he must have been guilty of that wilful neglect to maintain that was misconduct to justify such an order."

In *Ellis* v. *Ellis* (1929) 93 J.P. 175, Lord Merrivale had also said that the claim must be founded upon an obligation to maintain, and that the obligation was suspended if the wife wilfully lived apart from her husband, as had been found by the justices in that case. Her position in such circumstances was clearly laid down by Shearman, J., in *Jones* v. *Newtown Guardians* (1920) 84 J.P. 237, cited by the President in *Grubb* v. *Grubb* (1934) 98 J.P. 99. "Her desertion of her husband does not, like her adultery, determine his obligation; it only suspends it during the time that she wilfully absents herself. Here, she might have returned to her husband and called upon him to maintain her at any time."

The wife, may, however, be able to justify her leaving and living apart from her husband. She is not expected to put up with unreasonable conditions of living on pain that, if she revolts against them and leaves her husband, she is disentitled to maintenance. In *Jackson* v. *Jackson* (1932) 96 J.P. 97; Lord Merrivale said, in words accepted by Lord Merriman in *Holborn* v. *Holborn* (1947) 111 J.P. 36; "Is it right to say that the conditions imposed on the wife were unbearable for her or any other wife, conditions which it was not competent for a reasonable husband to set up? Were they such conditions that a reasonable wife, being so treated by an unreasonable husband, could not be expected to proceed with the conjugal life."

A wife who is apprehensive that she may not be able to justify a living apart from her husband usually contrives that the gun she presents at her husband in the magistrate's court is double-barrelled—a complaint that he has deserted her, and another that he has wilfully neglected to maintain her. She hopes that if the shot from one barrel miscarries, that from the other will find its target. This is especially the case where the wife can allege only a "constructive" desertion, *i.e.*, where it is she who has left the matrimonial home, but has been constrained to do so, as

she alleges, by her husband's conduct. It is in this type of case that justices should be particularly on their guard to see that legal justification for any order they may make does exist. It is indeed true that, although she may fail to prove desertion, she may yet in proper circumstances succeed in establishing a case of wilful neglect to maintain. For instance, there may be a parting in circumstances negativing desertion by either spouse, and not relieving the husband of his common law liability to maintain his wife. On the other hand, if the complainant cannot justify leaving her husband, and declines to return to him as he desires, she should fail as well on the desertion as on the neglect to maintain complaint. It is well to bear in mind that there must be some " grave and weighty matter " (a time-honoured phrase) to justify the wife in leaving home. (Per Lord Merriman in *Holborn* v. *Holborn, supra*). The law on this point is summarized in *Lieck and Morrison on Domestic Proceedings* at p. 48 : " Apart from adultery by the wife, the husband may have a good defence to a charge of neglect to maintain if it be proved that the wife had left him without good cause and makes no offer, in good faith, to return. He is not bound to maintain a wife who unreasonably refuses to live with him as his wife ; who has, in law, deserted him. Where the wife has left her husband, the justices will have to satisfy themselves whether or not she was justified in leaving him. If she was not, the wife's remedy is to go back to her husband, not to claim separate maintenance."

It is therefore clear that, before the justices can make an order on the ground that the husband " has wilfully neglected to provide reasonable maintenance," they must find, first and foremost, a duty on the part of the husband in the circumstances of the case to maintain his wife, and, secondly, a breach by him of that duty. It is submitted that it is wrong for justices to take an attitude such as, " the parties do not wish to live together, the husband must maintain his wife, therefore an order must be made." Justices must first look to see if there has been wilful neglect to maintain amounting to a matrimonial offence by the husband before they can saddle him with the serious burden of an order. The omission to see that there exists a duty to maintain may easily lead to an unjustifiable order being made against an innocent husband, involving perhaps a serious financial burden, failure to discharge which may have the tragic consequence of eventually landing the unfortunate man in prison.

P.J.H.

REPORT OF H.M. INSPECTORS OF CONSTABULARY, 1949

The four H.M. Inspectors of Constabulary have reported to the Home Secretary upon the county, city and borough police forces of England and Wales for the year ending September 30, 1949. The inquiry into police conditions of service by the committee appointed by the Home Secretary in May, 1948, under the chairmanship of the Right Hon. Lord Oaksey, D.S.O., was terminated and the members made their recommendations in 1949. It was inevitable that the inquiry by the Oaksey Committee should give rise to speculation and public discussion about the interior economy of the police. Voluminous evidence was tendered to the committee by representatives of the Home Office, the Scottish Home Department, local police authorities, chief officers of police, the superintendents and the Police Federation. Since the Desborough Committee in 1919 no such comprehensive review of the police service has been made. The report points out the advantages accruing to the police from the inquiry, and indicates that these are not to be measured by the increase in pay alone. The committee's further recommendations have a most important bearing on questions of welfare and efficiency.

At the commencement of the inspection year the authorized establishments of the police of England and Wales (excluding the Metropolitan, but including the City of London police) totalled 49,690. The actual effective strength was 42,819, showing a deficit of 6,871 in actual working strength, and the number of vacancies in the regular police was 7,872 ; full time auxiliaries temporarily filled 1,001 of the vacancies.

The police war reserve ceased to exist as such on December 31, 1948. Some of its members were absorbed into the regular force, while some others were re-employed in civilian grades, for clerical, garage and maintenance and similar duties ; the remainder were discharged.

At the close of the inspection year the authorized establishments had risen to 50,507, increases of 817 having been approved. The actual strength had risen in the same period to 42,913 (an increase of ninety-four) made up of 42,699 regulars and 214 first police reserves. Whilst, therefore, the strength of the regular police had increased from 41,818 to 42,699 (an addition of 881), the gap between effective strength and authorized establishment had widened from 6,871 to 7,594, owing to increases in the establishment and departure of most of the full-time auxiliaries. In spite of the augmentation of the authorized establishment by 817 during the year, the net increase in the regular force by 881 reduced the vacancies in the regular establishment from 7,872 to 7,808. Members of the first police reserve temporarily filled 214 of these vacancies.

On the problem of recruitment the report adds : " During the four years ended September 30, 1949, the number of men and women recruited annually to county and borough forces were respectively : 4,915 (1945-6) ; 6,120 (1946-7) ; 5,889 (1947-8) ; and 4,264 (4,009 men and 255 women) (1948-9). A total of 21,188 men and women have thus entered the service (excluding the Metropolitan police) since the end of the war, so that, after allowing for losses, the majority of beats and patrols, and some of the specialized duties of detective work and traffic supervision, are being carried out by constables who have joined the several forces within the last four years.

" Applicants fell sharply in December, 1948, principally as a result of the deferment of release of National Servicemen from H.M. Forces, and did not recover until August, 1949. By the latter date the effect of the improved pay and conditions of service adopted on the recommendation of the report (Part I) of the committee presided over by Lord Oaksey began to be noticed. By the end of September the returns from forces showed that more qualified applicants were forthcoming. A few forces had filled, or nearly filled, their complements ; others were securing sufficient to fill the quota of places allotted quarterly at district police training schools. Some forces, however, despite advertisement and publicity, were being less successful for reasons not easy to discover."

Against 4,264 men and women recruited during the year under review, 3,357 left, of whom 1,324 were probationers and 504 others resigned without qualifying for pension or gratuity. In some forces, fortunately, the losses through resignation of probationary constables who found themselves unable to settle to police duty, or could not get homes, or were otherwise

unsuitable, were less than a year or two ago. " In spite of these encouraging trends in some areas the losses in other forces are still abnormally high."

The inspectors regret that the district recruiting boards set up in 1945-46 in the eight chief constables' conference districts, as a medium for advising and directing applicants to the forces most urgently in need of recruits, do not appear to have made that effective contribution to the solution of this problem which was expected of them. It was expected that their main value would lie in the co-ordination of press notices and announcements, advertising vacancies in the forces concerned, and in generally bringing a real co-operative effort to bear on the recruiting campaign in the region served by the board.

Policewomen's authorized strength, excluding the Metropolitan force, rose from 1,104 to 1,215, and the actual number from 776 to 879. The increase of 103 in effective numbers was achieved, despite a wastage of 152, by the inflow of 255 probationers during the year. There are 336 vacancies still waiting to be filled, and further increases in establishments are desired by some forces. The general standard of recruits has improved. Wastage is high on account of women leaving to get married, but more married women are continuing to serve, since the removal of the bar against their employment.

" We welcome," says the report, " the two appointments made during the year, both in large county forces, of women chief inspectors. This is another step forward and is proof of the determination that the police service shall provide opportunities of promotion to the higher ranks for women as well as men . . . There is evidence of progress towards the ultimate objective which is the acceptance of policewomen as an integral part of the police service, and not merely a section with rather restricted and specialized duties." But there are still forces in which there is much room for improvement in this important matter and in which little has been done to remedy defects.

Of the special constabulary, progress was noted in many police districts and impetus was given by the decision to revive the Civil Defence services on a voluntary part-time basis, coupled with the call for volunteers for both the Civil Defence Corps and the special constabulary. In most forces the " specials " have been continued since the end of the war as a live organization, with facilities for training and the performance of duties calculated to increase the knowledge and efficiency of individuals, and improve working relations with members of the regular forces.

At the end of the inspection year the number enrolled outside the Metropolitan police district was 52,218, of which 14,674 were regularly performing duty. Suitable women can now be appointed as special constables.

The number of civilians employed outside the Metropolitan area increased from 3,493 in 1948 to 3,583 at the end of September, 1949. They are engaged on a variety of tasks not requiring police powers, such as general clerical duties, telephone operators, pay and accountancy, maintenance of motor vehicles, tailoring, storekeeping, domestic, canteen and cleaning work.

The inspectors report their approval at the saving of valuable time on the part of detectives engaged on investigations by the extended use of shorthand typists, which some forces employ. " The objective must be to employ suitable civilians with the necessary training to the utmost extent possible, in the interests of economy and efficiency in the use of trained policemen. Establishments should be revised and overhauled to this end and approved establishments of civilian staff laid down on the same lines as those for the regular police."

Cadet clerks in county and borough forces in 1948 numbered 741, and by the end of the inspection year had increased to 893. They are between sixteen and nineteen years old and are engaged in the departments of police where they gain useful insight into various aspects of police work and organization. The numbers vary in different forces, but most chief constables find that youths of good education, character and physique, drawn direct from the secondary schools, provide a useful source of future recruitment to the regular force. Their period of National Service is an interruption of training and sometimes results in the selection of a different calling on leaving the Armed Forces. Those who return do so with increased experience. In some forces there is still scope for extending this system of which a number of chief constables have now gained much knowledge.

Following attendance at the Police College (opened in June, 1948), 608 officers (in the ranks of chief inspector, inspector and sergeant) had passed through or were attending senior or junior courses at the end of September last. A substantial number have since been promoted in their respective forces. Each student is nominated by the police authority or chief constable of the force concerned. Recently officers from Colonial and other police overseas, from Scotland and the British Transport Commission's police, have been admitted. In addition, a substantial number of chief superintendents and superintendents from home police forces made short residential visits to the college, to examine and observe the organization and higher training, the techniques of study and research and to hear addresses given to students.

" The true test of the future success of the college, from the point of view of the men in the lower ranks of the police service, will lie in the quality of leadership shown by those who attend its main courses. Given wise selection of those to receive the benefits of this training, it is firmly believed that the college will give opportunities for the development of this quality . . . It may be well to repeat that the college is not a contrivance for giving undue weight, in the struggle for promotion, to factors such as youth and scholastic proficiency as compared with proved police ability . . . but chief constables must have the faith and courage to send to the college a proportion of outstanding young officers as well as the men of riper age and experience . . . they must also be prepared to give these men special opportunities for gaining experience and developing their powers of leadership before advancement to higher rank."

The report says that a good response was made by chief officers of police in the search for well-qualified officers to serve away from their forces on secondment to fill advertised vacancies on the college directing staff. Two years should be regarded as the normal term of service and it is noted with satisfaction that those members of the original directing staff who have left the college have received substantial promotion on their return to their forces or on taking up more responsible appointments in training centres.

Regarding district training centres, good progress was recorded with the plans for carrying into effect the decisions taken, in consultation with police authorities, to develop and continue, on a long term basis, the scheme for every constable on appointment to receive initial instruction at a residential training centre before being posted for duty or required to exercise his considerable powers as a constable. These training centres are the joint responsibility of the Home Office and of police authorities, who share the cost.

Much of the further training of probationary constables is perforce organized locally, but 2,900 men and 115 women were given further residential training at district training centres. It is hoped that as soon as accommodation is available, every constable on probation will return to a centre for two short periods, the first after about a year's service and the second before being passed out of probation. Basic training at these

centres was given to 3,724 men and 211 women on joining the police service. Seventy-seven men and six women in addition did not complete the courses and left the service. Those under instruction in the various centres on September 30, 1949, were 1,016 men and sixty women. There are nine centres altogether.

Four courses are conducted, namely, at Hendon, Birmingham, Preston and Wakefield, providing specialized training for detectives, and during the inspection year 658 officers attended from the forces of England and Wales. Advanced driving courses for police engaged on road traffic duties or otherwise on motorised patrols continue to be organized by a few chief constables, whose police authorities have agreed to provide the necessary accommodation, vehicles and instructors, appropriate contributions to the cost being made by other police authorities whose officers attend.

The subject of promotion is dealt with in the report: "The upgrading of a number of posts from superintendent to chief superintendent and inspector to chief inspector in divisions and departments where increased responsibilities made this desirable . . . has in the forces concerned provided increased opportunities to reward the excellent qualities shown over many years by officers in the middle and senior ranks. . ."

"Instances of gallant conduct are frequently brought to notice," continues the report. "During the year under review six members of county and borough police forces were awarded the King's Police Medal for Gallantry; one was awarded the Albert Medal; one the British Empire Medal; and four others were commended by His Majesty for outstanding conduct in the course of duty. Five of the awards of the King's Police Medal were in recognition of bravery and devotion to duty when arresting persons who were in possession of loaded firearms or dangerous weapons and the sixth recognized for rescue from drowning. The recipient of the Albert Medal was a young constable who made a heroic attempt to rescue a child from drowning in a feeder under a roadway."

In a "conclusion" the report shows concern at the unsatisfactory rate of progress being made in the provision of houses for the police. Houses built since the end of the war number 1,666, outside the Metropolitan police district. In addition, 1,195 are under construction and since 1945 a further 598 dwellings have been purchased, but this rate of provision falls short of what is required. "We conclude our report on this note because we believe that housing of the police is a most pressing problem; active measures for its solution would help both the acceleration of recruitment and promote further the contentment and efficiency of those married men who have as yet no houses of their own, or who are living in unsatisfactory quarters, some of whom have now been patiently waiting for better accommodation for the past three or four years."

BURIAL, ETC., BY PUBLIC AUTHORITIES

Section 50 of the National Assistance Act, 1948, makes it the duty of sanitary authorities in the county of London, and elsewhere of town councils and district councils, to cause to be buried or cremated the body of any person who has died in their area or been found dead in their area, in any case where it appears to them that no suitable arrangements for the disposal of the body have been or are being made otherwise than by them. Some problems arise out of this section when it is compared with the previous law. The Burial of Drowned Persons Act, 1808, is the first statute which imposed upon public authorities a duty of burying: there was at that time no idea of cremating as an alternative. It was suggested by Lindley, J., in *Woolwich Overseers* v. *Robertson* (1881) 45 J.P. 766, that Parliament had in 1808 supposed that the churchwardens and overseers, on whom the Act imposed the duty of burying the bodies of certain drowned persons, were already at common law under a similar obligation in respect of the bodies of persons found dead in their parishes, if no other person undertook or was liable for the burial. If Parliament did so suppose in 1808, it was mistaken, as was shown in the case of *R.* v. *Stewart* (1840) 12 Ad. & E. 773; 10 L.J.M.C. 40. It was established in that case that neither the parochial authorities nor any other public authority are at common law under a duty to bury any body, except a person dying on premises belonging to the parish, when the duty of the parochial authorities was the same as that of any other householder. At common law the obligation to dispose of a corpse rests upon the person on whose premises the corpse is lying—a proposition of law which does not often come into active operation, except where a person dies in hospital, but has done so sometimes and has occasionally caused hardship. The Act of 1808 imposed upon the parish the duty of burying corpses found in the sea within the boundary of the parish or cast on shore from the sea within that boundary. It is worth noting, in view of a question which has just been put to us by a correspondent, that the Act did not impose any such duty where a corpse was floating in the sea outside the parochial boundary, but it did, apparently, impose the duty of pulling out of the sea a corpse which was floating within the parochial boundary, since otherwise the corpse could not be buried. In *Woolwich Overseers* v. *Robertson*, *supra*, a collision between the Princess Alice pleasure steamer and another vessel in the Thames in September, 1878, led to the drowning of very many persons. A number of the bodies which were recovered from the river were claimed and buried by relatives, but many were not thus disposed of, and were buried by the parochial authorities of Woolwich. Upon their claiming the cost of the burial from the treasurer of the county of Kent in accordance with a justice's order made under s. 6 of the Act of 1808, their claim was resisted and hence the matter came before a Divisional Court, which decided against Woolwich upon the ground that the bodies had not been recovered from the sea but from the Thames, so that the Act did not apply. It may be mentioned in passing that there had, in the meantime, been passed provisions in several poor law Acts, *vide* 12 *Halsbury's Statutes* 1006, note to para. 2867, under which boards of guardians would in 1878 have had a power (though boards of guardians were never under a duty), to bury bodies found in their areas. The Woolwich case arose out of a claim upon the county, which of course could not have been made if the poor law statutes had been used as the authority for the burial and not the Burial of Drowned Persons Act, 1808. The result of the decision of the Divisional Court was that the parochial authorities of Woolwich could not recover from the county the costs they had incurred. We do not know whether the expenses were disallowed in their accounts by the district auditor, which would have been the logical result of the decision of the Divisional Court: since the case was earlier than the Local Authorities (Expenses) Act, 1887, there cannot have been an application to the Local Government Board for the purpose of removing the difficulty at audit. The expenses in question, which our report of the case shows to have been close upon £350, might have had to be paid by the overseers and/or churchwardens personally. At any rate the decision was followed five years later by the Burial of Drowned Persons Act, 1886, which ex-

tended the obligations created by the Act of 1808 to dead bodies found in tidal or navigable waters, although it still did not impose any duty in regard to bodies found floating outside the limits of a parish. There the liability rested until 1948, except that, with the abolition of overseers by the Rating and Valuation Act, 1925, the obligations of the Acts of 1808 and 1886 in regard to drowned persons were transferred to "any police constable acting within the parish," whose expenses were to be reimbursed by the rating authority, with the same power as before, for a justice to order reimbursement by the county. Boards of guardians had, as we have said above, a power though no duty to bury dead bodies not otherwise provided for, which bodies had not been produced by drowning; with the abolition of boards of guardians the duty passed to the councils of counties and county boroughs. The Acts of 1808 and 1886 are repealed by s. 50 (7) of the National Assistance Act, 1948; the transfer by that section of the duties under those Acts to the councils of boroughs and districts, and in London to sanitary authorities, brings the law for the drowned into line, in this respect, with the law for those dying on land. Incidentally, it is one of the rare instances of legislation passing an obligation downward, *i.e.*, it relieves county councils of an expense which in regard to drowned persons could have been imposed on them, and in regard to other dead bodies they had power to assume as poor law authorities. Section 50 of the new Act does not however stop there. In regard to drowned persons it does not extend the geographical limits within which a corpse must have been found, when it is the finding of the corpse and not the dying of the person which is the occasion of the duty. But it does extend quite remarkably the duties of public authorities in a manner which Parliament may not have foreseen, in that the obligation created by the section attaches to "the body of any person who has died or been found dead in their area." Taking first the case of the drowned person: if he fell into the river Thames at Mortlake, and after floating down the boat race course was pulled out at Putney, it might first be necessary to determine where he died for, if this was before the body passed into the county of London, there is a duty not merely upon the sanitary authority for Wandsworth but upon the extra-metropolitan council (in Middlesex or Surrey) in whose territory he actually expired. So also, if a man falls into the river Ouse at Newhaven and dies there from drowning, the body being carried out to sea and afterwards picked up at sea and landed in a different area, or washed ashore in a different area, there may under the new section be a conflict of duties between Newhaven and the place where the body is brought ashore. These questions could not have arisen under the Acts of 1808 and 1886, which were not interested in the place of death, but only in the place of finding of the body. In very many cases there will, fortunately, be no question to determine because suitable arrangements for the disposal of the body will be made by private persons. Similar difficulties could however arise, with the same unseemly conflict, if for instance a passenger were found dead in a train at Reading. The town council of Reading might become concerned to argue, and to produce medical evidence to prove, that the passenger must have died before the train left Paddington or at latest at some point along the route. In these cases where there is a conflict of obligation between the two authorities, it seems that the only practical solution is that the loss shall rest where it falls, *i.e.*, that if a body is found in a borough or urban district the duty will attach to the local council so that the first branch of the enactment (which as we have said above is new and did not occur in the earlier statutes), namely that which extends the duty to the body of a person who died in the area but has been found dead elsewhere, shall not in practice apply except in drowning cases, where the body has been carried out of the area of all local authorities and found at sea.

A special cause of dispute which arose quite often before the passing of the National Assistance Act, 1948, and gave rise to much conflict between the poor law authorities and the managements of hospitals, is apparently now to be disposed of administratively. Readers will remember that, where a patient died in hospital and the relatives could not or would not provide for disposal of the body, hospital managements in old days commonly sought to have it disposed of by the poor law, but that many poor law authorities saw no reason why they should throw this expense on the ratepayers. Their attitude was supported by the decision in *R.* v. *Stewart*, *supra*, and it is not infrequently found necessary to advise hospital managements that the disposal of the dead bodies of patients dying on their hands was one of their obligations, which they shared with innkeepers and private hosts (not to mention the farmer in whose barn a tramp might die) and one which could not, as of right, be passed on to any public authority. The nationalization of hospitals has led to the issuing by the Minister of Health of circulars to hospital managements, indicating that the disposal of the dead bodies of persons dying in the hospitals should now be accepted as an expense to be borne by them—in other words a charge on national funds, and not upon the funds of the local authority in whose area the hospital happens to be situate. This we have no doubt is right, the more so because hospitals will increasingly be used by persons not resident in the comparatively small local government area in which the hospital may be geographically situate. As time goes on, it is to be expected that the National Insurance Act, 1946, will have the effect of increasingly transferring the burden from local to national funds, so that the possible conflict between the area where a person dies and that where his body is found, or between the local authority and the hospital, will become largely academic. Section 22 (5) of the Act of 1946 provided for payment of death grant in proper cases to poor law authorities acting under that section. This will however take some time. The national fund available for payment of the expenses of burial is part of the insurance benefit which has been paid for by the deceased contributor. To begin with, the circular above mentioned estimates that in perhaps less than half the hospital cases will there be such means to fall back on, and where the body is that of an unknown person, or (say) a foreigner who has fallen off a ship and been washed ashore, there will be no credit with the national insurance funds in any case. One solution which would have got rid of many difficulties, including that of the person who dies in one area but is found dead in another, would have been to throw upon national funds the expense of disposal of the body, in all cases where suitable arrangements were not made by the relatives or others interested. This would logically have been no more than an extension of the administrative arrangement already made for avoiding an issue between the nationalized hospitals and local funds. It seems, however, that in 1948 Parliament was not ready for this solution and preferred to leave burial or cremation to be what, since 1808, it had been so far as it was a public charge at all, that is to say, a burden upon local funds except where the deceased was an insured contributor entitled to death grant under the Act of 1946. It may be found that this involves appreciable hardship, if, for example, a foreign aeroplane, carrying persons who are outside British national insurance funds, falls with the loss of several lives in a district of small resources, and it proves impossible to procure payment of the expense of disposal of the bodies from the relatives.

NOTICE

The next court of quarter sessions for the city of Hereford will be held at the Shirehall, Hereford, on Thursday, August 31, 1950, at 10.30 *a.m.*

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 52

"EGGS FOR ALL"—BUT NOT FOR THE CAFÉ

The proprietress of a café in Walthamstow appeared at Stratford Magistrates' Court on June 22, 1950, charged with obtaining eggs for the purpose of an establishment otherwise than in accordance with the terms of a buying permit contrary to the provisions of art. 5 of the Eggs (Great Britain) Order, 1949. A man appeared at the same time charged with supplying the eggs to the first defendant contrary to the same article.

For the prosecution, it was stated that the first defendant had a permit for twenty-six eggs per allocation, but a food inspector found thirty-six eggs and a number of shells at the café.

For the defence it was stated that the first defendant took her permit to the second defendant with whom she was registered, and because he had more eggs than he knew what to do with during the period of the recent glut, he gave her the eggs a week before they were due on the permit.

The café proprietress read in the papers that eggs were off control so she started to use the eggs and put in the café window a notice "Eggs for all," and the first customer was the inspector!

Defending solicitor suggested that the whole position was monstrous and he asked the Bench to deal with the case in a manner which would show the way in which they regarded it.

The chairman (Sir Herbert Dunnico), in announcing the decision of the Bench to fine each defendant £1, said "A private individual could have gone out and bought all the eggs she wanted, but a catering establishment is different. It's nearly as confusing as the red petrol."

COMMENT

The writer has before now commented upon the extraordinary situations which arise from time to time as a result of the multitudinous statutory instruments, etc., with which our daily life is beset but it is submitted that this case reveals a new high water mark and it is surprising that the local food control committee, to whom the facts were presumably reported by the inspector, should have thought fit to authorize the prosecution in the circumstances outlined above.

(The writer is indebted to Mr. H. G. Barrow, clerk to the Beacontree justices, for information in regard to this case.) R.L.H.

No. 53

WHEN IS A MOTOR CAR "BROKEN UP"?

A motor coach proprietor appeared before the Wakefield Justices on March 24, 1950, charged with failing to comply with reg. 11 of the Road Vehicles (Registration and Licensing) Regulations, 1949, in that he being the registered owner of a certain motor car which had been broken up did fail to notify the council with whom the vehicle was registered and at the same time deliver the registration book to such council.

For the prosecution, a police officer was called who stated that the vehicle was in a very dilapidated state and that in the course of conversation with the defendant the latter agreed that the vehicle was being broken up. The defendant denied this statement, but the justices decided to convict and imposed a fine of £1.

The defendant appealed to the West Riding Quarter Sessions Appeal Committee sitting at Wakefield in July, 1950, and upon the hearing photographs were produced of the car which had been taken subsequent to the hearing before the justices. It was stated by the respondent's counsel that, having made a study of the photographs, he did not think it right to ask the committee to find as a matter of fact that the vehicle had been broken up and in these circumstances the appeal was allowed with costs.

COMMENT

Regulation 11 of the 1949 regulations provides that when any vehicle is broken up, destroyed, or sent permanently out of Great Britain, the owner shall notify the council with whom such vehicle is registered and shall, at the same time, deliver the registration book to such council.

It is, of course, purely a question of fact as to whether or not a vehicle has been broken up and the mere fact that a vehicle is in a very dilapidated state would clearly not suffice to bring it within the provisions of the regulations.

The pertinacity of the defendant, presumably a Yorkshireman, who was prepared to go to the trouble of prosecuting an appeal against a conviction involving a fine of £1 should surely not pass unnoticed!

(The writer is indebted to Mr. Norman F. Cooke, clerk to the Justices, Wakefield, and to Messrs. Bromley & Walker, solicitors, of Leeds, who acted for the defendant before the justices and upon the appeal, for information in regard to this case.) R.L.H.

No. 54

AN IDLE FELLOW

In the early summer of this year a thirty-seven year old man appeared before the Rotherham Justices charged first with persistently neglecting to maintain his dependants, *viz.*, his wife and three children, in consequence of which assistance under Part II of the National Assistance Act, 1948, was given, contrary to s. 51 of the Act, and secondly, with persistently neglecting to maintain himself, contrary to the same section.

It was stated that the case was the first of its kind brought by the National Assistance Board and evidence was given that since July, 1948, to February 28, 1950, the defendant and his wife had received £144 12*s.* from the National Assistance Board and that before that he was in receipt of poor law relief.

The defendant, who pleaded guilty to both charges, handed a letter to the chairman in which he stated that he had been suffering from an illness for four years which had affected his health so much that he had been unable to work. The defendant was sentenced to three months' imprisonment on each charge, the sentences to run consecutively.

COMMENT

Section 51 of the Act provides that where a person persistently refuses or neglects to maintain himself or any person whom he is liable to maintain and, in consequence, assistance under Part II of the Act is given, such person shall be liable where assistance is given or accommodation provided, to imprisonment for a term not exceeding three months.

Section 42 of the Act provides that a man shall be liable to maintain his wife and children and a woman shall be liable to maintain her husband and her children.

(The writer is indebted to Mr. H. Baker, clerk to the Rotherham justices, for information in regard to this case.) R.L.H.

PENALTIES

West Riding Quarter Sessions—June, 1950—attempted shop breaking—one year's imprisonment. Defendant, a twenty-one year old labourer of no fixed address.

West Riding Quarter Sessions—June, 1950—house breaking—three years' corrective training. Defendant, a thirty year old boiler fireman of no fixed address, asked for thirty-four other offences to be taken into consideration.

West Riding Quarter Sessions—June, 1950—house breaking—nine months' imprisonment. Defendant, a twenty-three year old labourer, asked for three other offences to be taken into consideration.

Oxford—July, 1950—stealing bicycles (seven charges)—three months' imprisonment on each of the first three charges the sentences to run consecutively. Defendant, a thirty year old R.A.F. engine fitter, stole bicycles valued at £190, and sold eleven of them for £75. He asked for twenty-four other cases to be taken into consideration.

Oxford—July, 1950—dangerous driving—fined £9. To pay £1 7*s.* 6*d.* costs. Defendant, a coach driver, was alleged to have driven his coach in such a way as to compel a bus to brake very sharply to avoid it. Defendant thought that the bus ought to have stopped so that passengers could have been transferred from coach to bus.

Oxford—July, 1950—(1) stealing four pairs of stockings, a pair of socks and other articles, (2) stealing a suitcase, two shirts, two pairs of socks and other articles, valued at £6—(1) fined £5, (2) fined £5. Defendant, a fifty-three year old press worker, took the first articles from Woolworths and remainder from Marks and Spencer. He asked for another similar offence to be taken into consideration.

Oxford—July, 1950—(1) stealing 3*s.* 6*d.*, (2) stealing £1—conditional discharge, to make restitution of £1 3*s.* 6*d.* Defendant, a girl of twenty, took the coins from fellow workers so as to be able to buy a blouse. She asked for four other offences of a similar nature to be taken into consideration. Total sum involved £2 3*s.* 6*d.*

ERRATUM

In our issue of August 5, at p. 449, *ante*, a note of the case *Rugman* v. *Drover* was incorrectly given as *Drover* v. *Rugman*. The error has been corrected for the full report of the case, which will appear in due course in the *Justice of the Peace and Local Government Review Reports*.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review

DEAR SIR,

STREET TRADING—TOWN POLICE CLAUSES ACT, 1847, s. 21

I read with interest your article on p. 146 entitled "Street Trading Complexities." In the course of the article you deal with some aspects of the street trading provisions of the London County Council (General Powers) Acts and you stated that these do not apply outside London. It is, however, worth mentioning that a number of local authorities have made orders under s. 21 of the Town Police Clauses Act, 1847, prohibiting hawkers, pedlars, street vendors, photographers, advertising vehicles, itinerant musicians and other persons carrying on trade, etc., in various specified streets between certain hours when the streets are thronged and liable to be obstructed. These orders have proved of assistance to the police and a number of successful proceedings have been taken.

Yours faithfully,
NORMAN T. BERRY,
Town Clerk.

Town Hall,
Slough,
Bucks.

[We agree with our learned correspondent that, up to a point, s. 21 of the Act of 1847 can be regarded as the forerunner, in primitive shape, of the provisions in the London County Council (General Powers) Acts. We agree also that s. 21 has sometimes been useful to the police. Whether usefulness to the police is a good reason for allowing such a section to remain in the twentieth century is another question.—*Ed., J.P. & L.G.R.*]

The Editor,
Justice of the Peace and
Local Government Review

DEAR SIR,

SUMMARY PROCEEDINGS—EXCLUSIVE REMEDY—LIMITATION OF TIME

With reference to P.P. 11 at 114 J.P.N. 441 under the above heading there was a case before the Caernarvonshire Quarter Sessions on July 6, 1950, where a person who has sold a bungalow above the maximum price authorized was prosecuted under paragraph (8) of reg. 56A of the Defence (General) Regulations, 1939. He was convicted and fined £350 and ordered to pay the costs of the prosecution. In this case the sale had taken place in January, 1947, and proceedings could not be taken under the Building Materials and Housing Act, 1945. The case, however, might differ from the one quoted in your journal inasmuch that the defendant was the person to whom a licence to build the bungalow was issued by the local authority and it was at his expense that the building was carried out.

Yours faithfully,
W. J. WILLIAMS,
Chief Constable.

Chief Constable's Office,
Caernarvon.

[We are obliged to our correspondent. In this case it was possible to proceed against the person on whom the condition was first imposed, and such proceedings can be upon indictment by virtue of regulation 92. Our answer to p. 441 was concerned with a case where reliance had to be placed on s. 7 of the Building Materials and Housing Act, 1945.—*Ed., J.P. & L.G.R.*]

NEW COMMISSIONS

CAMBRIDGE BOROUGH

Thomas Henry Amey, 1, Radegund Road, Cambridge.
Arthur Llewellyn Armitage, Kenyon, Selwyn Gardens, Cambridge.
Mrs. Hilda Muriel Annie Bradford, Woodlands End, Great Shelford, Cambs.
James Hodge, 31, Eastfield, Cambridge.
Donald Portway, Master's Lodge, St. Catharines College, Cambridge.
Mrs. Annie Tweed, 56, King's Hedges Road, Cambridge.

LINCOLN CITY

Charles Henry Doughty, 88, High Street, Lincoln.
Mrs. Edna Margaret Epton, The Grange, Canwick, Lincoln.
Ernest Skelton Everitt, 3, Greetwell Road, Lincoln.
Eric Jordan Richardson, 38, Horton Street, Lincoln.
Robert Ernest Seely, 35, Queensway, Lincoln.

PERSONALIA

APPOINTMENTS

Mr. Alan G. Stirk, deputy secretary, solicitor and parliamentary officer of the Thames Conservancy, has been appointed clerk of the Wear and Tees River Board. Mr. Stirk, who was admitted a solicitor in 1936, has held previous appointments with the Huddersfield corporation, the North Riding of Yorkshire county council and the city of Exeter corporation.

Mr. John Lewis Williams has been appointed by the Board of Trade to be assistant official receiver for the bankruptcy district of the county courts of Cardiff and Barry, Pontypridd, Ystradyfodwg and Porth, Newport (Mon.), Tredegar, Blackwood, Abertillery and Bargoed; the bankruptcy district of the county courts of Swansea, Aberdare and Mountain Ash, Bridgend, Merthyr Tydfil, Neath and Port Talbot; and the bankruptcy district of the county courts of Carmarthen, Aberystwyth and Haverfordwest.

Mr. John Robert Culshaw, a superintendent of the Church Army Remand Home, Hempstead Hall, near Saffron Walden, for the past two years, has been appointed a probation officer by the Beacontree probation committee. He takes the place of Mr. G. C. Berrill who has been a probation officer in this area for the past three years. He has now been appointed a probation officer for the city of Gloucester.

Mr. Leslie Morrell has been appointed by the Leicester city probation committee to fill a vacancy created by the transfer of Mr. Cedric E. Smith to the Cornwall combined probation area. Mr. Morrell is thirty-five and served in the Royal Air Force during the war.

Miss C. D. Elliott has been appointed a whole-time probation officer by the Beacontree probation committee in place of Miss M. Whitchurch.

Miss R. M. N. Ritchie, a former Home Office trainee for the probation service, has been appointed a probation officer in the Middlesex combined probation area. During the war Miss Ritchie served as an officer in the W.A.A.F.

OBITUARY

Mr. R. H. Pearce died on August 1 at the age of eighty-one. Mr. Pearce was a former deputy clerk to the Acton, Willesden and Kensington justices, and later became acting clerk, which appointment he held until his retirement in 1940.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Adoption—*Divorce proceedings pending between mother of infant and her husband, conflicting statements as to infant's paternity, ought juvenile court to proceed with adoption?—Dispensing with husband's consent—Description of infant in order.*

A married man and his wife wish to make an application to the juvenile court jointly to adopt a child. The child was born during the subsistence of the marriage of the mother and her husband, but they have not lived together for some time. No separation order or agreement exists. The mother registered the birth of the child, and declared her husband to be the father and his name accordingly appears on the birth certificate. The mother has now filed a petition for divorce. The child is mentioned in the petition, and the mother states in the petition that she does not admit her husband is the father. There is some reason to think that in point of fact the husband is not the father of the child, and that the declaration made at the time of registering the birth is not true.

The mother has signed the form of consent to the adoption, but the husband (who is now serving a substantial sentence of imprisonment) has declined his consent. It is understood that the only reason why the husband declines consent is that he wishes to have nothing to do with the matter.

Your opinion is desired upon the following points:—

(1) Having regard to the difficulties arising as to the paternity of the child, to the fact that the husband is now in prison, and to the fact that a divorce petition has now been filed, in which the existence of the child is mentioned, ought the juvenile court to decline to entertain the application for the adoption order?

(2) If, in the circumstances it is proper for the juvenile court to accept jurisdiction, can the consent of the husband be properly dispensed with?

(3) Having regard to the fact that the child's birth certificate names the husband as the father of the child, but the mother now declares he is not, ought the child to be described in the Adoption Order merely as the child of X (the mother), or as the child of Y (the husband) and X (the mother)?

JIV.

Answer.

(1) We think that the clerk to the justices would be well advised to communicate with the divorce court to ascertain that court's views as to the propriety of the juvenile court's hearing the case while the divorce proceedings are pending, as in those proceedings the paternity and custody of the infant may well be in issue.

We answer (2) and (3) subject to (1).

(2) We think the husband must be given notice under r. 9 of the 1949 Summary Jurisdiction Adoption Rules. The juvenile court can hear evidence relevant to the child's paternity. If in their view the husband is shown not to be the father his consent is not required. If they are not satisfied that he is not the father they can dispense with his consent if a condition in the provisos (*a*) or (*c*) of s. 3 (1) of the Act of 1949 is fulfilled.

(3) We think the court should describe the infant in the order according to the conclusion to which they come on the evidence given in the course of the proceedings.

2.—Guardianship of Infants Acts—*Father an American citizen—Jurisdiction to make order.*

The mother of a child of four years of age is applying to my court for an order of custody of the child of the marriage and maintenance order. The mother is a British subject, married to the father who is an American citizen. The mother has not taken up American nationality and therefore under the British Nationality Act, 1948, retains her British nationality, but the child, I presume, follows the nationality of his father and is therefore an American citizen. Both the husband and wife are living in England at the present time but living apart and I understand that the husband will oppose the application at the court and may object to jurisdiction.

I shall be much obliged if you will kindly let me know whether you consider that my magistrates have jurisdiction to make an order (provided of course they are satisfied that it is a proper case for an order to be made). Also whether there could be any substance in the contention that the court have no jurisdiction on the ground that both the father and the child are American citizens.

S. "CHILD."

Answer.

If the child was born within the King's allegiance he is a British subject. However, even if he is not a British subject, there appears to be no reason why the justices should not entertain the application. We find nothing in the Guardianship of Infants Acts limiting the jurisdiction in this way, and we think that so long as the parties and the infant are in this country the courts can deal with such applications, which are decided in the interests of the welfare of the infant.

3.—Highway—*Footpath—Common law repairability.*

I am puzzled by the words in s. 47 of the National Parks and Access to the Countryside Act, 1949, "the rule of law whereby a highway is repairable by the inhabitants at large." Can you elucidate them?

A.B.I.

Answer.

This does not seem obscure. The rule is thus stated in *Pratt and Mackenzie*: in a note to s. 23 of the Highway Act, 1835. The common law enabled any person to dedicate a highway to the public and then it immediately became repairable by the inhabitants of the parish or township.

4.—Husband and Wife—*Maintenance order—Divorce and remarriage—Effect.*

I am collecting weekly payments under a maintenance order for a woman who has recently obtained a divorce and is contemplating remarriage. No application has been made by the divorced husband for a rescission of the order but the payments are in arrear. I have heard of no order of the divorce court for maintenance in this matter and there are no children. Would you be kind enough to advise me on the following points:—

1. It is understood that neither divorce of the respondent or remarriage of the applicant automatically rescinds the order but that application for the purpose must be made to the court, the court having a discretion before remarriage of the applicant to rescind or vary the order as it thinks just. Are these assumptions correct?

2. Supposing however the respondent applies, after the remarriage of the applicant, for a rescission of the order and for a repayment of any sums paid on behalf of the applicant after the remarriage, must the court order the repayment of such sums of money, has it a discretion in the matter or must the payments stand? It is assumed that a divorced husband has no further liability to maintain his former wife, after she has married again, apart from an undischarged order of the court.

The matter concerned will probably have been the subject of articles or discussion in your journal previously to this and if such is the case perhaps you would refer me to the volume and pages at which the same appear. I have difficulty in finding much authority on this point and any help you can give will be much appreciated.

SAIN.

Answer.

(1) We agree, *see Bragg* v. *Bragg* [1925] P. 20; *Plunkett* v. *Plunkett* [1937] 3 All E.R. 736; *see* also an article at p. 87, *ante*. The remarriage of the wife would certainly be a ground upon which the justices might exercise their discretion to discharge the order and not merely vary it.

(2) We know of no power to order such repayment. We agree that apart from the order the husband would have no liability to maintain his former wife. However on the general question of maintenance continuing after remarriage, *see Rayden on Divorce*, fifth edn., p. 492.

5.—Landlord and Tenant—*Tenancy ended—Ejectment order—Courts (Emergency Powers) Act*, 1943.

Applications have been before my justices for possession of premises coming within the Small Tenements Recovery Act, 1838, being tenancies at will. Warrants of ejectment have been granted but not yet executed. It appears from r. 3 of the Courts (Emergency Powers) Rules, 1943, that leave to execute the warrants can be given by the summary court, but a perusal of r. 5 seems to limit the power of the summary court to exercising discretion in respect of the levying of distress for rates; it seems that leave to exercise the remedies named in s. 1 (2) (*a*), (1) and (ii) of the Courts (Emergency Powers) Act, 1943, is to be made to the High Court or in certain circumstances the county court. Do you agree that a summary court has no power to give leave to execute warrants or ejectment granted by that court?

AMIRT.

Answer.

This query is based upon a fundamental misapprehension. Where a tenancy has ended, as it must have done before possession can be

ordered at all under the Act of 1838, the Courts (Emergency Powers) Act, 1943, does not apply: *Butcher* v. *Poole Corporation* [1942] 2 All E.R. 572. By the time this answer is published, the Act may, anyhow, have lapsed.

6.—Licensing—*Consent to proposed alterations—Consultation with local authority.*

In connexion with applications under s. 71 of the Licensing (Consolidation) Act, 1910, licensing justices have received a suggestion from a local council in their licensing division that in future when plans are submitted for proposed alterations to licensed houses it would be helpful if the justices were to ask for any observations of the council before considering the plans.

Generally, if not always, plans for proposed alterations must be submitted to the local council for byelaw approval as well as to the licensing justices, but in the division in question there has been no previous suggestion that the jurisdiction of the justices should be exercised in conjunction with that of the council or that the council should be consulted in any way before the justices consider plans.

Is there any right vested in the council to be heard on applications to the justices for consent to proposed alterations to licensed houses, or to inspect plans submitted to the justices, and is it the practice in other divisions for local councils to be consulted? Your comments on the propriety of the suggestion would also be appreciated.

NOU.

Answer.

Section 71 of the Licensing (Consolidation) Act, 1910, clearly places on licensing justices a discretion to consent to the making of structural alterations in on-licensed premises. In our opinion, it would be irregular for licensing justices to enter into private discussions with the local authority on the merits of an application pending before them.

But we think it proper that licensing justices, when considering an application at brewster sessions or transfer sessions, shall inform themselves on every aspect of an application, and for this purpose should hear any observations which the local authority there desire to make. In order that the local authority may have an opportunity of considering whether or not they have any representations to make on the subject, we see no reason (although the law is silent on the point) why they should not inspect plans submitted in advance of an application to the licensing justices.

7.—Lotteries—*Private lottery—Club holding weekly draw.*

A club in this district, with a membership of 1,500 to 2,000, conducts a weekly draw, the proceeds of which, after a small percentage has been deducted for one of the purposes of the club (an aged members' fund) is distributed in money prizes of approximately £80 to £100. Tickets are 1s. each and sold only to members of the club. At midday on Sunday all sales of tickets are stopped and a draw is made, the winner is the person holding a ticket bearing a group of three numbers which correspond with the numbers on the ticket drawn from the drum. On purchasing a ticket in this draw the member is invited to forecast the group of numbers which will appear on the winning ticket, but if this group has already been nominated he can make a different forecast and quote another group of three numbers. The nature and extent of this draw can be gauged from the fact that in some cases members form themselves into syndicates and permutate forecasts. It is so conducted that the persons responsible for the draw have no better chance of winning than any other person.

1. Do you consider that as members forecast the result of the draw this places it outside the definition of a private lottery, as defined in s. 24 of the Betting and Lotteries Act, 1934, and that it amounts to betting within s. 1 of the Betting Act, 1853?

2. If you do hold the view that the draw is a private lottery, would the premises be brought within the definition of a gaming house by reason only of the regularity of their use for this purpose and the nature and extent of the lottery?

It does occur to me that the judgment of Lord Hunter in *Strang* v. *Brown* (1923) S.C. (5) 74 is applicable in these circumstances.

SLOT.

Answer.

We think that if all the requirements of s. 24, *supra*, are fulfilled, the distribution remains lawful as a private lottery. As the lottery is apparently not one of the main objects of the club, and only private lotteries between members are conducted, we do not consider the premises are being kept as a betting house.

8.—Master and Servant—*Truck Acts—School caretaker.*

Is a school caretaker, occupying part of the school premises as living accommodation, a workman as defined by s. 10 of the Employers and Workmen Act, 1875, and therefore subject to the provisions of the Truck Acts?

ARET.

Answer.

In our opinion, no. We do not find that the exact point has been raised in the courts, but the test is whether the manual labour required of the employed person by his contract is his real and substantial employment: *Bound* v. *Lawrence* (1892) 56 J.P. 118. A school caretaker or other caretaker (some of whom may be "domestic or menial," and so outside the definition), is ordinarily required to do manual labour, but his real and substantial employment is taking care of the property.

9.—Road Traffic Acts—*Level crossing gates unlighted—Vehicle collides with them—Is any offence committed against s. 51 of the 1930 Act?*

Your valued opinion is sought in the following matter:—

An accident occurred during the hours of darkness whereby a motor lorry, proceeding along a classified road, collided with level crossing gates (which had been closed to road traffic) smashing the gates and knocking two railway trucks off the line. The driver of the motor vehicle sustained injuries.

At the time of the accident, it was established beyond dispute that the lamp on the crossing gate, facing the driver of the motor vehicle involved, was not lighted. This was the only lamp used for the purpose of the illumination of the particular gate. A shunter was responsible for seeing the lamp was lighted and stated (which cannot be disproved) that he had lighted the lamp on the gate in question before lighting up time on the evening of the accident. There were two street lamps near the crossing (on the driver's side of the crossing) but neither of these was lit.

I have done much "delving" but am unable to find anything which definitely states an offence is committed by either the railway authorities or the shunter responsible for lighting the lamps, but I am of the opinion that an offence is committed under s. 51 of the Road Traffic Act, 1930, inasmuch as I consider it incumbent on the railway authorities to ensure that no danger is caused to road users by "causing to be placed apparatus across a highway in such a manner as to be likely to cause danger to persons using the highway."

If you agree with me, do you consider the shunter who was responsible for lighting the lamps should be prosecuted, or the British Railways for causing, or both?

JUNC.

Answer.

We can find no authority on the matter, but we do not think that s. 51 is applicable in this case.

OFFICIAL ADVERTISEMENTS, TENDERS, ETC. (*contd.*)

CITY OF OXFORD

Appointment of Assistant to Justices' Clerk

APPLICATIONS are invited for the above appointment from persons experienced in the general duties of a justices' clerk's office, capable of taking courts in the absence of the clerk, able to keep magisterial accounts, court registers and other records, and taking depositions.

Shorthand and typewriting will be an advantage. The salary will be in accordance with the National Joint Council Grade A.P.T. VI, *viz.*, £595—£660 p.a.

The appointment will be subject to one calendar month's notice on either side, and will also be subject to the provisions of the Local Government Superannuation Act, 1937, the successful candidate being required to pass a medical examination.

Applications, stating age, past and present employment, full particulars of experience and the names of two referees, must be received addressed to the Right Worshipful the Mayor, Town Hall, Oxford, by September 11, 1950.

ST. PANCRAS (METROPOLITAN) BOROUGH COUNCIL

Appointment of Deputy Town Clerk

APPLICATIONS are invited for the above appointment at a commencing salary of £1,160 per annum, rising by annual increments of £50 to a maximum of £1,410 per annum. Candidates must possess a sound knowledge of the principles and practice of local government, and have had wide administrative experience and be competent to advise the council and its committees on every aspect of local authority administration. Forms of application and further particulars obtainable from the undersigned on receipt of a stamped addressed foolscap envelope. Applications, together with names of three referees, must be received not later than September 22, 1950, in envelopes endorsed "Deputy Town Clerk."

R. C. E. AUSTIN,
Town Clerk.

St. Pancras Town Hall,
Euston Road,
London, N.W.1.
August, 1950.

COUNTY BOROUGH OF MIDDLESBROUGH

Appointment of Junior Assistant Solicitor

APPLICATIONS are invited for the appointment of Junior Assistant Solicitor at a salary in accordance with the National Scheme of Conditions of Service, namely :—

(*a*) After admission and on first appointment—A.P.T. Division, Grade V (*a*) (£550-£610 per annum).

(*b*) After two years' legal experience from the date of admission—A.P.T. Division, Grade VII (£635-£710 per annum).

The appointment is permanent, superannuable and subject to the National Scheme of Conditions of Service. Previous Local Government experience is not essential.

Forms of application and terms of appointment may be obtained from the undersigned, to whom they are returnable not later than Wednesday, September 13, 1950.

E. C. PARR,
Town Clerk

August 19, 1950.

GLAMORGAN COMBINED PROBATION AREA

Appointment of Female Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Female Probation Officer, to serve in the Neath and Port Talbot area of the county.

Applicants must be not less than 23 nor more than 40 years of age, except in the cases of whole-time serving officers and persons who have satisfactorily completed a course of training approved by the Secretary of State.

The appointment will be subject to the Probation Rules, 1949, and the Probation Officers' (Superannuation) Order, 1948, and the salary will be in accordance with the scale prescribed by the Rules. The successful candidate will be required to pass a medical examination.

Applications, on forms to be obtained from the undersigned, must be sent in by Monday, September 4, 1950.

D. J. PARRY,
Clerk of the Combined Area Probation Committee.

County Hall,
Cardiff.

YIEWSLEY AND WEST DRAYTON URBAN DISTRICT COUNCIL

Appointment of Clerk and Solicitor of the Council

APPLICATIONS are invited for the above-mentioned appointment from Solicitors with good local government experience.

The salary attaching to the post will be £1,050 per annum, rising to £1,250 per annum by annual increments of £50.

The Council have adopted the Memorandum of Recommendations of the Joint Negotiating Committee for Town Clerks and District Council Clerks, and the duties and conditions of service therein mentioned will apply to the appointment.

The appointment will also be subject to :—

(*a*) The passing of a medical examination.

(*b*) The provisions of the Local Government Superannuation Act, 1937.

(*c*) Three months' notice on either side.

The occupier of the post will be required to reside either within the district or a reasonable distance thereof.

Applications, stating age, qualifications and experience, together with copies of two recent testimonials, must reach me not later than Saturday, September 2, 1950.

Candidates should also state whether or not they are related to any member or senior officer of the Council.

Canvassing, directly or indirectly, will disqualify.

A. C. KENNEDY,
Clerk of the Council,

Council Offices,
Yiewsley.

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